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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,406

02/06/2007

Bjarne Nordli

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3841

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DENNISON, SCHULTZ & MACDONALD  
1727 KING STREET  
SUITE 105  
ALEXANDRIA, VA 22314

EXAMINER

BARTOSIK, ANTHONY N

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

02/18/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,406	<b>Applicant(s)</b> NORDLI, BJARNE	
	<b>Examiner</b> ANTHONY N. BARTOSIK	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 3-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 6-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is a Non-Final Rejection sent in response to Applicant's RCE of 12/03/2009.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 12 and 13 are again rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 12 and 13 again recite the limitation "their end surfaces." There is insufficient antecedent basis for this limitation in the claim.

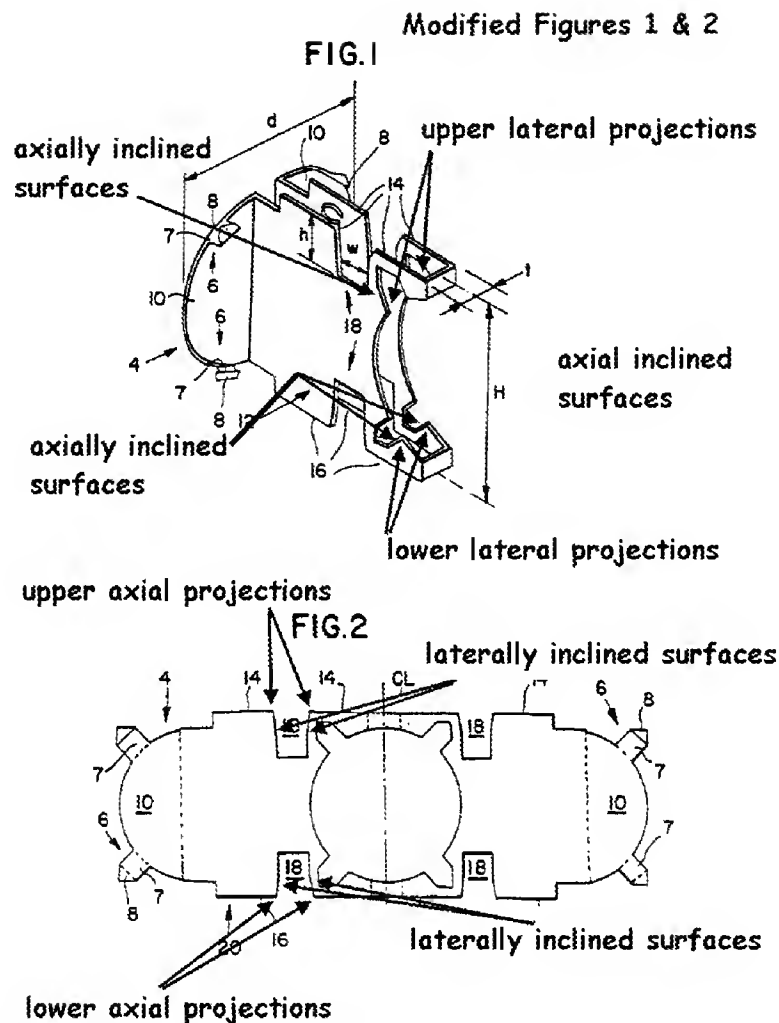
#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:  
  
A person shall be entitled to a patent unless –  
  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. **Claims 2-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Stein (U.S. 5,282,343).**

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6. In Re claim 14, Figures 1-7 of Stein disclose in combination with two log constructional elements (corresponding members 24 from each wall 30 & 36 in Fig. 7) used in log wall construction, a cogging piece (2) with lateral and axial inclined surfaces (see Mod. Figs. 1-2 below). The additional language provided in claim 1 is either functional language or intended use language. To be limiting functional language or intended use language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c) & 2114. Here, Stein is capable of meeting the functional and intended use limitations.

Regarding the language that defines the combination, since the claims do not define the connection in a specific structural manner, this limitation is open to a broad interpretation as set forth above. Additionally, the language that sets forth the lateral and axial inclined surfaces has not been sufficiently defined, and the surfaces specified in the claim can be interpreted to as rejected. The Examiner is of the opinion that the present invention **is patentable**, however, the claims need to include positively recited structural limitations. As the claims currently stand, they do not adequately define the invention over Stein.



7. In Re claim 2, Figures 1 and 2 (see modified Figs. 1 & 2) of Stein disclose two upper axial projections with laterally inclined surfaces and two lower axial projections with laterally inclined surfaces, two upper lateral projections with axially inclined surfaces and two lower lateral projection with axially inclined surfaces.

8. In Re claims 6 and 7, Figures 1 and 2 (see modified Figs. 1 & 2) of Stein disclose the claimed symmetrical orientation of the upper and lower axial projections.

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9. In Re claim 8, Modified Figure 2 of Stein discloses the claimed symmetrical orientation of the upper and lower lateral projections.

10. In Re claim 9, Figure 4 of Stein discloses a permanently attaching means (8). The phrase, "for permanently attaching" found in the claim, is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c). Here the claimed connection is capable of being made.

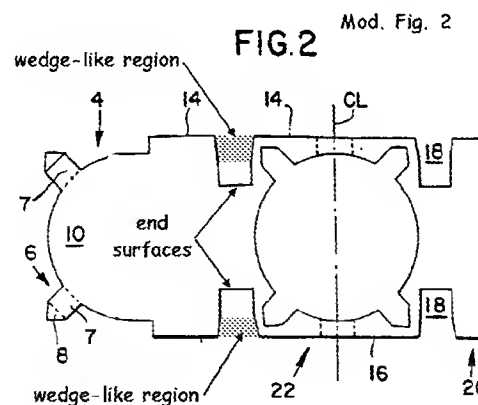
11. In Re claim 10, Figure 4 of Stein discloses a temporary attaching means (8). The phrase, "for temporarily attaching" found in the claim, is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c). Here the claimed connection is capable of being made.

12. In Re claim 11, Figure 4 of Stein discloses the claimed cogging piece. The phrase, "to be" above, is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order

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to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the limitations of the claim. MPEP 2106 (c). Here the cogging piece of Stein is capable of being attached with a bracket and pin.

13. In Re claim 12, Figure 2 (see Mod. Fig. 2 below) of Stein discloses a substantially wedge-like region (shaded region) is defined between said upper laterally inclined surfaces, said region corresponding with the shape of said two lower lateral projections, and wherein two cogging pieces positioned adjacent to each other will have their end surfaces in contact with each other. The Examiner is interpreting the "corresponding with the shape" limitation to be met by the fact that the two elements are both shaped and located on the same piece, such an interpretation is reasonable as "corresponding" is not defined.



14. In Re claim 13, Figure 2 (see Mod. Fig. 2 above) of Stein discloses a substantially wedge-like region (shaded region) is defined between said lower laterally inclined surfaces, said region corresponding with the shape of said two upper lateral

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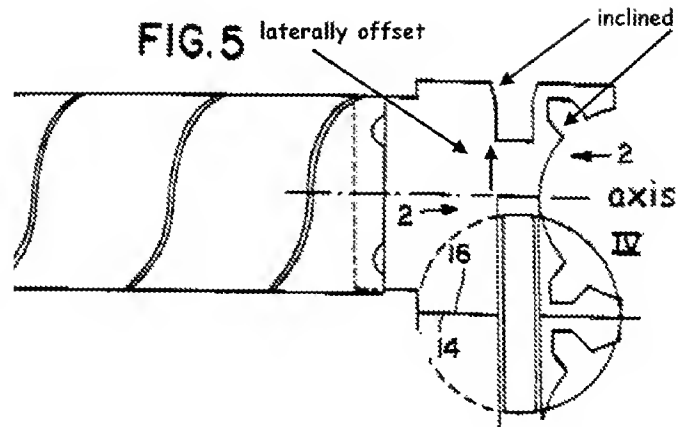
projections, and wherein two cogging pieces positioned adjacent to each other will have their end surfaces in contact with each other. The Examiner is interpreting the "corresponding with the shape" limitation to be met by the fact that the two elements are both shaped and located on the same piece, such an interpretation is reasonable as "corresponding" is not defined.

### ***Response to Arguments***

15. Applicant's arguments filed September 24, 2009 have been fully considered but they are not persuasive.

16. **Applicant argues** that the limitations of claim 1 that set forth the lateral and axial inclined surfaces distinguish the present invention from Stein. After reviewing Applicant's remarks, the Examiner understands the intended purpose of the language but does not believe that it distinguishes the claims from Stein. As mentioned in Applicant's remarks, defining an incline relative to an axis is rather ambiguous. The limitation laterally inclined can be interpreted as shown below in modified Fig. 5 of Stein. Here, you can see that the inclined surface is offset in the lateral direction and inclined. Furthermore, the axial surface is also inclined relative to the axis as shown in the figure below. Neither of the included surfaces actually intersects the axis as they are not centered on the axis.





Since the planar surfaces of the axial and lateral surfaces are being set forth in relation to an axis, it is possible to arrive at an interpretation other than Applicant's interpretation set forth in their reply. Accordingly, the rejection under Stein is upheld.

### ***Examiner Interview***

17. The Examiner would be open to conducting an interview concerning this application to discuss claim language to sufficiently define the present invention from the prior art. Applicant is welcome to contact the Examiner to set up such an interview.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY N. BARTOSIK whose telephone number is (571)270-3112. The examiner can normally be reached on M-F 7:30-5:00; E.D.T.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635